

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Rural Broadband Experiments)	WC Docket No. 14-259
)	
)	

COMMENTS ON PETITIONS FOR RECONSIDERATION



The American Cable Association¹ (“ACA”) hereby submits comments on the Petitions for Reconsideration (“Petitions”) filed in response to the Federal Communications Commission’s (“Commission”) Report and Order and Further Notice of Proposed Rulemaking in the above-referenced dockets.² ACA addresses the limited reconsideration request of Verizon.³

Verizon requests that the Commission amend the *CAF Competitive Bidding Order* by ranking bids based on a dollar per location and not based on the ratio of bid to reserve price,

¹ ACA represents approximately 750 smaller cable operators and other local providers of broadband Internet access, voice, and video programming services to residential and commercial customers. These providers pass approximately 19 million households of which 7 million are served. Many of these providers offer service in rural communities and more remote areas.

² *Connect America Fund*, WC Docket No. 10-90, *ETC Annual Reports and Certifications*, WC Docket No. 14-58, *Rural Broadband Experiments*, WC Docket No. 14-259, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-64 (rel. May 26, 2016) (“CAF Competitive Bidding Order”).

³ Verizon Petition for Reconsideration, *Connect America Fund et al.*, WC Docket No. 10-90 *et al.* (Aug. 8, 2016) (“Verizon Petition”).

modifying the “unlimited” usage requirement for the top two performance tiers, and providing greater flexibility in serving funded locations. ACA comments on the first two of these requests, both of which it believes have merit, and reconsideration should be granted as discussed below.

Ranking Bids – In the *CAF Competitive Bidding Order*, the Commission decided to rank bids based on the ratio of bid to reserve price to ensure support would not disproportionately flow to states where the cost to serve per location was generally lower.⁴ However, as Verizon correctly notes, the Commission’s action would not maximize the number of eligible locations that would receive service within the limited budget for the program and thus it would not use funding most efficiently.⁵ This is especially the case because of the Commission’s decision to add approximately 300,000 “extremely high cost” locations to the competitive bidding program without increasing available support to the amount set by the cost model for these added locations.⁶ Because the auction’s ranking system would be expected to produce inefficient outcomes,⁷ the Commission should revisit its decision and instead rank bids on the

⁴ *CAF Competitive Bidding Order*, ¶ 85.

⁵ Verizon Petition at 2-3. See Reply Comments, American Cable Association, WC Docket No. 10-90 *et al.* at 2-7 (Aug. 5, 2016) (“ACA Reply Comments”). ACA has asserted broadband service in rural areas should be reasonably comparable to service provided in other areas.

⁶ See ACA Reply Comments at 4-5. ACA also noted in these comments that the Commission expanded the number of eligible locations without adding sufficient funding to cover the cost of serving these additional locations while providing reasonably comparable service to lower cost eligible locations.

⁷ For example, assume two bidders participate in the auction offering to deploy broadband service with the same performance level to locations in two different census blocks. Bidder one bids \$400 for census block A that serves 100 eligible locations and has a reserve price of \$1,000. Bidder two bids \$600 for census block B that serves 10 eligible locations and has a reserve price of \$2,000. Although bidder one bids less money to serve more locations, under the rules adopted by the Commission, bidder two would prevail because the bid has a lower ratio of bid to reserve price. Under the Verizon proposal, bidder one would prevail because it bid the lower amount.

straightforward methodology of lowest cost per location.⁸ In sum, the Commission should focus on the key objective in the competitive process: to bring the appropriate performance level of broadband service to eligible locations most efficiently within the limited CAF budget.⁹

Data Usage Allowance – In the *Competitive Bidding Order*, the Commission required that, in addition to speed and latency requirements, the top two performance tiers – “above baseline” and “gigabit” – include the offering of unlimited data usage.¹⁰ Verizon notes, however, that the Commission provided no evidence that unlimited data usage for these performance tiers is reasonably comparable to urban broadband offerings.¹¹ ACA agrees that the Commission’s rationale to support requiring unlimited data usage for the two highest performance tiers was at best “thin.” In contrast, for the two lower performance tiers (Minimum Performance and Baseline tiers), the Commission explicitly relied upon the reasonably comparable standard in establishing a data usage allowance.¹² Given that it has provided insufficient support for its proposal, the Commission should reconsider its decision, gather evidence about data usage

⁸ The Commission can then provide service to the remaining eligible locations by using the Remote Areas Fund. See *id.*, in which ACA proposed such an approach in developing a weighting methodology.

⁹ This objective stands in contrast to the goal of the right of first refusal process, which was to bring service more expeditiously.

¹⁰ *CAF Competitive Bidding Order*, ¶¶ 26-27.

¹¹ Verizon Petition at 4.

¹² *CAF Competitive Bidding Order*, ¶¶ 22, 25.

allowances in urban offerings for these top two performance tiers, and use these data to establish a “reasonably comparable” requirement for data usage allowances.

Respectfully submitted,

By: 

Matthew M. Polka
President and Chief Executive Officer
American Cable Association
Seven Parkway Center
Suite 755
Pittsburgh, PA 15220
(412) 922-8300

Thomas Cohen
Kelley Drye & Warren LLP
3050 K Street, NW
Washington, DC 20007
(202) 342-8518
Counsel to American Cable Association

Ross J. Lieberman
Senior Vice President of Government Affairs
American Cable Association
2415 39th Place, NW
Washington, DC 20007
(202) 494-5661

September 12, 2016